



# SENATOR RUNNER'S WEEK IN REVIEW

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## More Unenforceable Gun Control

The Legislature is at it again. Every year, legislators push for legislation to further restrict gun ownership and this year is no exception. Besides banning various types of guns, this year they focus on ammunition and the results would be very detrimental and will do nothing to reduce crime – which ought to be the focus.

Two bills, Senate Bill 357 by Senator Dunn (D-Santa Ana) and Assembly Bill 352 by Assemblyman Paul Koretz (D-West Hollywood), seek to increase law enforcement's ability to identify spent ammunition. Unfortunately, these bills are unlikely to do much more than turn law-abiding citizens into criminals and do nothing to put real criminals behind bars and keep them there.

## Bullet Serialization

SB 357 (Dunn) would require all handgun ammunition manufactured, imported into the state for sale or personal use, kept for sale, offered or exposed for sale, sold, given, lent, or possessed to be serialized with a unique identifier that stays intact on the bullet after it is fired. This requirement would take effect on January 1, 2009.

Among other penalties, the bill provides sanctions for failure to comply with the above requirements. Commencing January 1, 2009, any person who manufactures, causes to be manufactured, imports into the state for sale or personal use, keeps for sale, offers or exposes for sale, or who gives or lends any handgun ammunition that is not serialized pursuant to this bill is guilty of an alternate misdemeanor/felony (wobbler), punishable by imprisonment in a county jail not to exceed one year or in the state prison for a term of 16 months, two years, or three years. The bill also provides that, commencing January 1, 2016 with specified exemptions, any person who possesses in any public place any handgun ammunition that is not serialized is guilty of an infraction punishable by a fine not exceeding \$500, or a misdemeanor punishable by up to six months in county jail and/or a fine of up to \$1,000.

This legislation is really just creating a new class of criminals. This bill outlaws the possession of nonserialized ammunition in a public place. From the provisions contained in the bill, all nonserialized ammunition possessed on January 1, 2016 will have to be disposed of or kept from

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public places. The public place definition is sufficiently broad that one would not even be able to take nonserialized ammunition to a shooting range (building open to the public) after this date or even hunting in a non-public place because, ostensibly, a person would have that non-serialized ammunition in his driveway, on a street, and in an automobile—all public places. Even though the bill now delays implementation of the possession prohibition, it is not uncommon for hunters and shooting enthusiasts to have ammunition that would last for 10, 20 years, or longer.

According to Crossroads of the West Gun Shows, writing in opposition to this bill: “Notwithstanding whether the technology of placing serial numbers on ammunition actually works, there are far too many problems that would render it virtually useless as a crime solving tool for law enforcement. For example, in the case of a burglary involving the theft of ammunition that is later used in a crime, law enforcement would waste valuable time and resources investigating the wrong person on the basis of the identifier that could be better spent pursuing the real perpetrator.”

### **Microstamping of Firearms**

AB 352 (Koretz) requires all new models of semi-automatic pistols to be configured with a firing pin or other mechanism that will imprint identification information on the cartridge when the firearm is fired. Specifically, the bill requires, beginning on January 1, 2009, all semi-automatic pistols to be designed and equipped with microscopic characters that identify the make, model, and serial number of the pistol etched into the interior surface or internal working parts of the pistol. This information would be imprinted onto each cartridge case when the firearm is fired. A firearm without the requisite microstamping would be deemed “unsafe,” as that phrase currently exists in statute.

Firing pins wear out, but this bill fails to provide a mechanism for replacing them. According to the National Rifle Association, this bill would cause gun owners to violate federal law. Under 18 U.S.C. § 922(k), it is unlawful for any person to knowingly transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered. NRA makes the argument that this bill would constitute a violation of this prohibition and related implementing regulations. The NRA states: “A review of federal law has revealed that AB 352 would make the everyday practice of maintaining and repairing firearms (as outlined in the handgun owners’ manual) a felony. If a person needed to replace commonly worn out ‘micro-stamped’ parts to keep their handgun safely operating, that person would be violating federal law because the alteration, removal, and obliteration of a manufacturer’s or importer’s markings on those parts carries the penalty of up to ten years in federal prison and \$250,000 fine.”

This bill would limit the availability of new models of pistols in California without providing any substantial public safety benefit. Criminals could easily defeat the intended identification purpose of this bill by filing off the microstamping on a firing pin. They could also switch the firing pin from one pistol to another pistol. The bill does not provide a mechanism for replacement of a worn-out firing pin and does not clarify how a seller ascertains if a pistol contains the requisite features. (It is a misdemeanor to manufacture, import, sell, give, or lend, any “unsafe handgun” pursuant to Penal Code § 12125.) How is a seller or purchaser supposed to know that any given firearm contains the requisite microstamping?

This bill is similar to prior proposals for “ballistics fingerprinting,” which were abandoned when the Department of Justice concluded that they were unreliable. Much more independent testing is required before the state should seriously consider a proposal like this that would increase the price and reduce the availability of new firearms.

Regardless of the authors’ intentions of these bills, the bottom line is the legislation represents two

more ill-conceived, measures targeting law-abiding gun owners instead of criminals.

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